



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAC/163312

PRELIMINARY RECITALS

Pursuant to a petition filed January 20, 2015, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Public Assistance Collection Unit in regard to Medical Assistance, a hearing was held on February 05, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Public Assistance Collection Unit (PACU) can compel payment of a public assistance debt.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Kristine DeBlare
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of [REDACTED] [REDACTED] [REDACTED]. The petitioner was previously a resident of Milwaukee County.
2. On February 14, 2014 the agency sent the petitioner a Medical Assistance (MA) overpayment notice. The notice stated that the petitioner was overpaid \$1,682.80 in MA benefits under claim

number [REDACTED]. A second notice stated that the petitioner was overpaid \$1,878.71 in MA benefits under claim number [REDACTED].

3. On March 4, 2014 the agency mailed the petitioner a repayment agreement.
4. On June 3, 2014, July 2, 2014, and August 4, 2014 the agency mailed the petitioner dunning notices reminding him of the debt.
5. On November 13, 2014, the PACU sent petitioner an Order to Compel Payment of Liability.
6. The petitioner has not made any payments under either MA claim number, and is still liable for the total debt.
7. The petitioner has not entered into a repayment agreement with the agency.

DISCUSSION

Wis. Stat., §49.497(1m)(a) provides that if, after notice of incorrect payment is made, a recipient who is liable for an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment than the State of Wisconsin may bring an action to enforce the liability or may issue an order to compel payment of the liability. In this case the department has issued an order to compel payment of the liability. Petitioner can appeal, but according to the law the only issues that can be addressed are whether he paid off the overpayment, or whether he has entered into a repayment agreement and complied with it.

The petitioner appears to have filed this appeal to contest whether he owes the money at all. According to a Wisconsin statute that the Division of Hearings and Appeals must follow, I cannot reach the merits of the overpayment claim. The petitioner stated that he did not know about this overpayment until now. I do not find this testimony credible. His girlfriend originally attempted to timely appeal the overpayment, but abandoned that appeal. The petitioner and his girlfriend are living with each other and their children in St. Louis. In addition, many notices were mailed to the petitioner. It is up to the petitioner to keep the agency informed of his address, and I can only presume that the petitioner received these notices.

I further note that the overpayment arose because the petitioner's girlfriend and children were not living in Wisconsin when receiving these benefits. Even if I had jurisdiction to decide this overpayment issue, I do not find the petitioner or his girlfriend's testimony credible that she was living in Wisconsin. Her FoodShare benefit usage shows nearly all purchases made in the St. Louis area. The petitioner was a member of that household, and therefore as an adult member is also responsible for this overpayment. See *FoodShare Wisconsin Handbook*, § 7.3.1.2; 7 C.F.R. § 273.18(a)(4)(i).

The issues in a case such as this one are limited as described above. There is no dispute that the agency established an overpayment, which the petitioner failed to contest. The petitioner did not enter into a repayment agreement, and still owes to the total amount of the MA overpayment under both claim numbers. Thus I must conclude that the PACU may compel payment of a public assistance debt.

CONCLUSIONS OF LAW

The PACU can compel payment of a public assistance debt.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where this action arose (Milwaukee County). Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of February, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 25, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability